

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ARNALDO O. GOMEZ,

Plaintiff,

v.

CITIBANK, N.A., et al.,

Defendants.

2:11-CV-1451 JCM (GWF)

**ORDER**

Presently before the court is defendants Citibank, N.A. and Mortgage Electronic Registration Systems, Inc.'s motion to dismiss. (Doc. #4). Defendant Cal-Western Reconveyance Corporation has filed a joinder. (Doc. #8). Plaintiff Arnaldo Gomez failed to file an opposition.

"To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim for relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "Where a complaint pleads facts that are 'merely consistent' with a defendant's liability, it 'stops short of the line between possibility and plausibility of entitlement to relief.'" *Id.* (citing *Bell Atlantic*, 550 U.S. at 557). However, where there are well pled factual allegations, the court should assume their veracity and determine if they give rise to relief. *Id.* at 1950.

Pursuant to Local Rule 7-2(b), an opposing party's failure to file a timely response to any motion constitutes the party's consent to the granting of the motion and is proper grounds for dismissal. *U.S. v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979). However, prior to dismissal, the

1 district court is required to weigh several factors: “(1) the public's interest in expeditious resolution  
2 of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4)  
3 the public policy favoring disposition of cases of their merits; and (5) the availability of less drastic  
4 sanctions.” *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (citing *Henderson v. Duncan*, 779 F.2d  
5 1421, 1423 (9th Cir. 1986)).

6 In light of the plaintiff's failure to respond and weighing the factors identified in *Ghazali*,  
7 the court finds dismissal appropriate.

8 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendants' motion to  
9 dismiss (doc. #4) be, and the same hereby is, GRANTED.

10 DATED October 17, 2011.

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13 **UNITED STATES DISTRICT JUDGE**